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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,513	08/01/2003	Robert E. Schlosser	H0005220	4338
7590	08/08/2005		EXAMINER HEPPERLE, STEPHEN M	
Honeywell International Inc. Patent Services Group 101 Columbia Road Morristown, NJ 07962			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,513

Applicant(s)

SCHLOSSER ET AL.

Examiner

Stephen M. Hepperle

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 22-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 20, 21, 26 and 27 is/are rejected.
- 7) ☒ Claim(s) 16-19, 28 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant's election of Group 1, claims 1-13, in the reply filed on 7 July 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant has amended the claims in an effort to rejoin the inventions. Because of the amendments, claims 14-21 are rejoined because the essential details of the subcombination are now seen in the combination, and new claims 27-29 are seen as part of the invention.

Claims 22-25 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7 July 2005. These claims are still seen as outside the elected invention.

The drawings are objected to because the numerals in many of the figures is obviously informal. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

Art Unit: 3753

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Royalty et al. Royalty shows a pivoting damper with lips 44 extending from opposite sides of the damper blade. Shaft 40 is driven a controller 28, seen as a drive mechanism.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-11, 20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cary et al. Cary shows a damper blade that has opposed edges, vane turning surface (lip) 14 that extends along the full length of the edge, and a central pivot shaft 11-12 (Fig. 1). Fig. 9 shows an embodiment with lips 14, 14' extending perpendicularly from the vane surface in the direction opposite from the opening direction of

Art Unit: 3753

rotation of the vane. If the term “drive mechanism” can be seen as the shaft 11-12, then the claims are anticipated. If “drive mechanism” means a separate mechanical drive to rotate the shaft, then it would have been obvious (if not inherent) to provide means to rotate the damper shaft to give it added utility.

Claims 1-4, 6, 8, 14, 15, 20, and 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Klingberg. Klingberg shows rectangular vanes 17 that rotate in opposite directions. Each vane has a lip 22 that extend along the length of the edge and extend in opposite directions.

Claims 7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cary et al. in view of Royalty et al. Royalty shows a rib in Figs. 6-7 extending from the pivot axis to lips 44. It would have been obvious to add ribs to the Cary Fig. 9 damper from the pivot axis to the lips as shown by Royalty, to reinforce the damper plate.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cary et al. in view of Dickey et al. Dickey shows a pivoting valve 86 directly driven by stepper motor 76. It would have been obvious to directly drive the Cary valve with a stepper motor as shown by Dickey because stepper motors are a known precise way of driving valves, and such capability would have been useful in Cary.

Claims 16-19 and 28-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Karlicek shows multiple vanes driven by a single stepper motor. Beyer et al. shows a

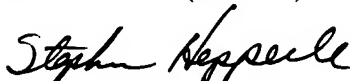
Art Unit: 3753

damper with lips facing away from the vane to affect torque required by the electric motor for actuation. Ridenour shows oppositely rotating vanes with oppositely directed lips on either side of the edge of the main vane. Imoehl shows a throttle butterfly directly driven by a stepper motor. Davis shows another butterfly valve with oppositely directed lips to affect actuation torque.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Hepperle whose telephone number is 571-272-4913. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on 571-272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen M. Hepperle
Primary Examiner
Art Unit 3753

SMH